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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,043	03/22/2004	George W. Ratemann	RMI-003	4080
3897 7590 01/05/2007 SCHNECK & SCHNECK P.O. BOX 2-E SAN JOSE, CA 95109-0005			EXAMINER LEE, CLOUD K	
			ART UNIT 3753	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/807,043

Applicant(s)

RATERMANN, GEORGE W.

Examiner

Cloud K. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/9/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 17-18, 21, 24-25 and 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Buermann (US Patent No. 6,003,714).

Buermann discloses a tamper notification and protection device comprising means (1 and 13) for blocking particles from entering the first fitting wherein the means for blocking is a thimble, first and second straps (2 and 3) bendable about the valve and attached the the means for blocking the first fitting (see figure 2), first strap fastenable to the second strap (28 and 94), a tab disposed on the first wherein the tab including perforations (19 and 21), an indentation at the strap is bendable (15, 16, 22 and 23), the second strap further comprises a first strap receiver (28).

Regarding claim 28, the modified Buermann discloses the first strap and second strap is bendable at any location along the straps because the straps are bendable everywhere.

3. Claims 30-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Oliver (US Patent No. 4,266,813).

Oliver discloses a tapered thimble (see figure 2) having a base (10), an inner (24, 26 and 28) and outer (16 and 18) surfaces with securing means for attachment to a thread.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buermann (US Patent No. 6,003,714) in view of Flinta et al (US Patent No. 5,386,924) and Oliver (US Patent No. 4,266,813).

Buermann fails to disclose a tapered cylinder having a base and inner and outer surfaces with securing means, and the first strap having a ring.

Flinta discloses a tapered cylinder (see figure 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a tapered cylinder in order to receive the nozzle as taught by Flinta (see Col 3 lines 11-17).

Flinta discloses the strap having a ring (see figure 2) wherein the ring forming a needle eye shaped (the ring is read as needle eye shaped). It would have been obvious that one of ordinary skill in the art at the time the invention was made to have provided the strap having a ring in order to secure the tapered cylinder to the nozzle and thereby preclude the tapered cylinder from becoming lost as taught by Flinta (see Col 4 lines 60-63).

Oliver discloses a tapered cylinder having inner and outer surfaces with securing means (see figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a tapered cylinder having inner and outer surfaces with securing means in order to attach the cylinder to any different sizes of thread as taught by Oliver (see Col 1 lines 26-45).

Regarding claim 11, Buermann discloses the cylinder, first and second straps are comprised of plastic (see Col 5 lines 16-19).

Regarding claim 13, the modified Buermann discloses the first strap and second strap is bendable at any location along the straps because the straps are bendable everywhere.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buermann in view of Flinta et al and Oliver as applied to claims 1-15 above, and further in view of Robbins et al (US Patent No. 6,783,031).

Regarding claim 16, the modified Buermann fails to disclose the securing means are tangs. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided tangs as the securing because applicant has not disclosed that tangs provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with securing means are threads because Robbins et al (US Patent No. 6,783,031) disclose the threads and tangs are interchangeable and similar tangs structure for engagement is suitable (see Col 4 lines 22-29). Therefore, it would have been

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an obvious matter of design choice to modify Buermann to obtain the invention as specified in claim 16.

6. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buermann (US Patent No. 6,003,714) in view of Oliver (US Patent No. 4,266,813).

Buermann fails to disclose a tapered cylinder having a base and inner and outer surfaces with securing means wherein the surfaces having tangs receiving a thread of the first fitting.

Oliver discloses a cylinder having inner and outer surfaces with securing means (see figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a tapered cylinder having inner and outer surfaces with securing means in order to attach the cylinder to any different sizes of thread as taught by Oliver (see Col 1 lines 26-45).

Regarding claims 19-20, the modified Buermann fails to disclose the securing means are tangs. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the securing means are tangs because applicant has not disclosed that tangs provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with securing means are threads because Robbins et al (US Patent No. 6,783,031) disclose the threads and tangs are interchangeable and similar tangs structure for engagement is suitable (see Col 4 lines 22-29). Therefore, it would have been an obvious matter of design choice to modify Buermann to obtain the invention as specified in claims 19-20.

7. Claims 22-23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buermann in view of Flinta et al.

Buermann fails to disclose a tapered cylinder with securing means, and the first strap having a ring.

Flinta disclose a tapered cylinder (see figure 3). It would have been obvious that one of ordinary skill in the art at the time the invention was made to have provided a tapered cylinder in order to receive the nozzle as taught by Flinta (see Col 3 lines 11-17).

Flinta disclose the strap having a ring (see figure 2) wherein the ring forming a needle eye shaped (the ring is considered as needle eye shaped). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the strap having a ring in order to secure the tapered cylinder to the nozzle and thereby preclude the tapered cylinder from becoming lost as taught by Flinta (see Col 4 lines 60-63).

8. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buermann in view of Flinta et al as applied to claims 22-23 and 26 above, and further in view of Oliver and Robbins et al (US Patent No. 6,783,031).

The modified Buermann fails to disclose the tapered cylinder having a base includes an inner surface and an outer surface having tangs.

Oliver discloses a cylinder having inner and outer surfaces with securing means (see figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a tapered cylinder having inner and outer surfaces with

securing means in order to attach the cylinder to any different sizes of thread as taught by Oliver (see Col 1 lines 26-45).

Regarding claim 27, the modified Buermann fails to disclose the securing means are tangs. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the securing means are tangs because applicant has not disclosed that tangs provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with securing means are threads because Robbins et al (US Patent No. 6,783,031) disclose the threads and tangs are interchangeable and similar tangs structure for engagement is suitable (see Col 4 lines 22-29). Therefore, it would have been an obvious matter of design choice to modify Buermann to obtain the invention as specified in claim 27.

9. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oliver in view of Robbins et al (US Patent No. 6,783,031).

Oliver fails to disclose the securing means are tangs. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the securing means are tangs because applicant has not disclosed that tangs provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with securing means are threads because Robbins et al (US Patent No. 6,783,031) disclose the threads and tangs are interchangeable and similar tangs structure for engagement is

suitable (see Col 4 lines 22-29). Therefore, it would have been an obvious matter of design choice to modify Buermann to obtain the invention as specified in claim 32.

Response to Arguments

10. Applicant's arguments filed 11/17/06 have been fully considered but they are not persuasive.

In response to applicant's argument that Buermann does not disclose a first and second straps attached to the means for blocking, Buermann discloses a tamper notification and protection device comprising means (1 and 13) for blocking particles or a cylinder from entering the first fitting, first and second straps (2 and 3) bendable about the valve and attached the means for blocking the first fitting (see figure 2). The cap (1) and stem (13) together are read as means for blocking particles from entering the first fitting. Regarding applicant concern about Buermann does not disclose a means for blocking is a thimble, the cap (1) and stem (13) are read as thimble. The definition of thimble is a small cap accounting to a dictionary, therefore, Buermann clearly disclose a means for blocking is a thimble.

In response to applicant's argument that Oliver does not disclose a tapered cylinder having a base, the examiner disagrees with applicant. Oliver discloses a tapered thimble (see figure 2) having a base (10), an inner (24, 26 and 28) and outer (16 and 18) surfaces with securing means for attachment to a thread. Applicant defines the "base" as a means for preventing contamination, Oliver discloses a universal coupler used for transferring liquid, however, the structure of Oliver's invention which is similar to applicant's invention (tapered cylinder) is capable of preventing contamination by the base (10) because the housing or base

(10) can prevent contamination entering the valve or nozzle. Furthermore, applicant's argument are not recited in the rejected claims, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that Buermann discloses a cap and stem to a valve, not a nozzle, it is noted that features which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Also, the examiner disagrees with applicant's argument that there is no suggestion to combine Buermann with Flinta, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves. In this case, Flinta explicitly discloses a motivation to modify Buermann with a tapered cylinder in order to receive the nozzle (see Col 3 lines 11-17). Furthermore, Flinta discloses an invention in the same field of applicant's endeavor (both valve and nozzle are fluid handling devices) and concerned the same particular problem, which is to protect the valve or nozzle. Therefore, Flinta disclose a motivation to modify Buermann in order to obtain the invention as specified in claim 1-15.

Additionally, the examiner disagrees with applicant's argument that, the combination or modification of Buermann and Oliver would change the principle of operation of the prior art invention being modified. Oliver explicitly discloses a motivation to combine Buermann with Oliver in order to attach the cylinder to any different sizes of thread as taught by Oliver (see Col

1 lines 26-45). Furthermore, the structure of Oliver's invention is capable of preventing contamination by the base (10) as discussed in detail above. Therefore, the combination of Buermann with Oliver would not change the principle of operation of the prior art invention being modified.

In response to applicant's argument that the tangs of claim 16, one having ordinary skill would have provided tangs as the securing means because the mere fact that the components (tangs and screw thread) at issue are functional and mechanical equivalents as taught by Robbins et al (US Patent No. 6,783,031), "the threads and tangs are interchangeable and similar tangs structure for engagement is suitable" (see Col 4 lines 22-29). (also see MPEP 2144.06)

In response to applicant's argument that flinta et al fail to disclose a ring through which the burst strap is insertable, please note, the function limitation "burst strap is insertable" does not positively recite the burst strap is inserted through a ring, therefore, flinta et al meet the claims.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cloud K. Lee whose telephone number is (571)272-7206. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on (571)272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CL



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